

MONTANA LEGISLATIVE HISTORY

Chapter 61 19 71

Bill H _____ S 29

Original bill & history ____c

H. Committee on Education

Hearing Date(s) 2-16 ☒ c

_____ c

_____ c

_____ c

Date Out _____ c

S. Committee on Education

Hearing Date(s) 1-21 ☒ c

_____ c

_____ c

_____ c

Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

Senate
Education

BILL NO.	ENTERED COM.	COMMITTEE ON EDUCATION						REFERRED BACK TO COMMITTEE
		OUT OF COM.	DO PASS	DO NOT PASS	DO PASS AS AMENDED	BE CON- CURRED IN	BE CON- CURRED IN AS AMENDED	
SB 1	1/5/71	1/6/71	X					
SB 2	1/5/71	1/6/71	X					
SB 10	1/5/71	2/5/71	X					
SB 29	1/8/71	1/21/71			X			
SB 56	1/11/71	1/19/71	X		X (1/27/71)			1/21/71
SB 58	1/11/71	1/19/71			X			
SB 103	1/15/71	1/21/71			X			
SB 118	1/15/71	2/5/71		X				
SB 123	1/15/71	2/9/71		X				
SB 129	1/16/71	1/21/71		X				
SB 130	1/16/71	1/21/71	X					
SB 142	1/18/71	2/10/71	X					
SB 145	1/18/71	1/23/71	X					
SB 155	1/19/71	1/29/71			X			
SB 161	1/19/71	1/23/71	X					
SB 182	1/20/71	2/3/71	X					
SB 192	1/20/71	2/3/71	X					
SB 200	1/21/71	2/9/71			WITHOUT RECOMMENDATION			
SB 219	1/21/71	2/3/71	X					
SB 235	1/21/71	1/27/71			X			
SB 236	1/21/71	1/27/71			X			
SB 249	1/21/71	1/27/71			X			
SB 297	1/21/71	1/29/71	X					

A meeting of the Education Committee was called to order on January 21, at 9:40 a.m., in room 402, by Chairman Cotton. The secretary called the roll, with all members of the committee present. Intern David Irving also attended the meeting. Bills to be considered are Senate Bills 29, 129, 103, and 130.

Senate Bill #29 - This bill provides for creation of a confidential relationship between the student and school personnel. Senator Rosell, author, stated it has reference to privileged communication such as is now given priests and ministers, physicians, lawyers, etc. Senator Rosell desires to amend the bill on line 21, page 2, to include the word "nurse," between "psychologist," and "or teacher". She then introduced Dr. Michael L. Basham, president of *the Montana Personnel and Guidance Association*.

Dr. Basham pointed out there is a great need for young people to have a relationship with a professional within the public schools which would remain confidential and inspire trust in the youngster. Under the proposed legislation, any information volunteered can remain confidential regardless of what is discussed, and this would be of great help in bringing about the right relationship between a pupil and the professional in the schools. Many new problems have arisen in society and thus problems affecting young people are brought into the schools. These problems arise out of personality conflicts, disturbances in the home, drugs, etc. Dr. Basham is presently a psychologist with School District No. 2 in Billings and he feels the children will be greatly affected mentally by this bill.

After discussion with the committee members, Senator Rosell again resumed the floor in order to introduce Robert H. Wilson, District Judge of the 13th Judicial District in Billings. She pointed out that although the bill specifically mentions only teachers, any person employed by the district as a member of the educational, supervisory or administrative staff would be included in this category, such as principals, etc.

Judge Wilson spoke of the increase in juvenile problems. He feels that youngsters cannot talk to their parents and with other adults, and are unable to bridge the "generation gap".

Senator Rosell next introduced Mrs. Jean Bradbury, child psychologist. Mrs. Bradbury indicated she came from Indiana where such privileged communication is in use, and she feels that it makes a great deal of difference in what a child will reveal to you. A survey of counsellors throughout the state, located in the various schools, returned nearly 200 replies in favor of the legislation, while there was not one objection.

Senator Rosell introduced Jim McKinney, secretary of the Montana School Board Association, who also spoke in support of the bill.

Senator Rosell stated that Paul O'Hare, Superintendent of Schools, was unable to attend the meeting, but that he, too, supports and encourages passage of Senate Bill 29.

Senate Bill #129 - This bill relates to school bus transportation. Again, Senator Rosell, author of the bill, rose in its behalf. She told the committee that the bill had come about through the legislative sub-committee as a result of recodification of the school laws. The Senator then introduced John Campbell, presently business manager and clerk of School District 1, who had been very helpful in formulating the recodification of the school laws.

Mr. Campbell stated this was merely a housekeeping type of bill. In view of the fact that there are 34 different types of school elections which may be conducted, it was felt that this method of appealing bus routing and school transportation could be eliminated.

Senator Rosell next appeared in behalf of Senate Bill #130, which relates to pecuniary interests of a trustee in schools of his district. This is likewise a sub-committee bill, and John Campbell also spoke on this legislation. He stated that because of some abuses of the law, it was felt that the amendment might be needed.

Senate Bill #130 - The committee had previously discussed this bill. The chairman offered amendments as follows:

(1) Amend section 2, page 2, line 19 of the original bill, by underlining "or" preceding "districts;" and (2) further amend section 2, subsection (2), page 2, line 22, of the original bill, by striking the following word "districts;" and inserting in lieu thereof the following words "districts; or".

Senator Thiessen moved adoption of the amendment, and Senator Boylan seconded the motion. Motion carried.

Senator Gilfeather made a motion that Senate Bill 103 DO PASS AS AMENDED. The motion was seconded by Senator Brownfield and was carried.

Senator Rugg made the motion that Section 1, Subsection (7), page 2, line 21, of Senate Bill 29 be amended following the word and punctuation "psychologist," by adding the word and punctuation "nurse,". The motion was seconded by Senator Carl and was carried.

Senator Rugg then moved that Senate Bill 29 DO PASS AS AMENDED; seconded by Senator James, and the motion was carried.

The chairman then pointed out that he has some very strong objections to Senate Bill 129 because of a bad situation in his area, and he didn't want to cut the public out of this last chance of appeal. The only other alternative left would be through the courts. Senator James moved that Senate Bill 129 DO NOT PASS. Senator Lynch seconded, and the motion carried.

Senator Gilfeather moved that Senate Bill 130 DO PASS. The motion was seconded by Senator Brownfield and the motion carried.

EDUCATION

Education

SEP 10. S 29

Robert H. Wilson	Dist. Judge	✓
Michael L. Pearson	Dist. Personal & Indig. Care	✓
Dean Erickson	Mont. Personnel & Ed.	✓

- ☒ DO PASS AS AMENDED
☐ DO NOT PASS
☐ BE CONSIDERED IN
☐ BE NOT CONSIDERED IN
☐ BE ADOPTED
☐ BE NOT ADOPTED

STANDING COMMITTEE REPORT

January 21

1971

MR. President

We, your committee on EDUCATION

having had under consideration SENATE

Bill No. 29

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
CREATION OF A CONFIDENTIAL RELATIONSHIP BETWEEN
STUDENT AND SCHOOL PERSONNEL."

Respectfully report as follows That

SENATE

Bill No. 29

Be amended as follows:

Amend Section 1, Subsection 7, page 2, line 21, of the
original bill, following the word and punctuation
"psychologist," by adding the word and punctuation "nurse,"

DO PASS AS AMENDED

EDUCATION COMMITTEE

42nd Legislative Assembly

LAST
HISTORY

Bill No.	Subject Matter	Date In	Hearing Date	Comments	Date Out	Committee Action	Final Action
HB 563	AN ACT RELATING TO PRO- CEDURE FOR DETERMINING MAXIMUM REIMBURSEMENT FOR INDIVIDUAL TRANSPOR- TATION. Warfield.		2-9			DO PASS	KILLED IN 2ND READING 2-11-71
HB 564	AN ACT RELATING TO THE DEFINITION OF THE SCHOOL FOUNDATION PROGRAM. Warfield.		3-8				KILLED IN COMM ON ADJOURNMENT 2-12-71
HB 556	Requiring all colleges & universities to es- tablish course in drug & alcohol education. Lucas, et al		2-4			DO PASS	ENROLLING 3-4-71
Bennett, et al HB 568	An act relating to con- trol of parking & traf- fic on university grounds.	1-22	1-26		1-26	DO PASS AS AMENDED	SENT TO GOV 3-4-71
HB 458 Selstad, et al	Relating to additional county-wide levy to cov- er deficiencies in state equalization aid.	1-22	1-30		1-30	DO NOT PASS	KILLED IN EDUCATION 1-30-71
SB 29 Rosell, et al	An act providing for the creation of confidential relationship between student & school person- nel.	1-25	2-16		2-16	BE CONCURRED IN	SIGNED BY GOVERNOR 2-27-71

February 16, 1971

EDUCATION COMMITTEE

The eighteenth meeting of the Education Committee was called to order by Chairman Warfield, at 10:35 a.m. All but one member was present.

Sen. Rosell, sponsor of SJR 30, presented Mr. Ed Sterling, representing the Montana Personnel and Guidance Association as a proponent for the bill. Other proponents were: Don Jones, Billings Chamber of Business and Consumer Relations Bureau. Peter R. Ensrud, Montana Vocational Association, who stated he had many letters in support of HJR 30. William Ball - Montana Advisory Council for Vocational Education, who read and submitted a written statement.

Sponsor of SB 219, Sen. Rosell introduced Judge Wilson who read and submitted a prepared statement, as a proponent of the bill. The other proponent was Mrs. Robert H. Wilson of Billings, Montana.

SB220, sponsored by Sen. Rosell, introduced Mrs. Jean Bradburry, School Psychologist of School Dist. #2, who stressed the need for the right of the counselor or teacher to be able to counsel students without the fear of legal action being taken. The other proponent was Richard J. Stedam, representing the Montana Personnel and Guidance Association of Billings, Montana.

Senator Mathers, sponsor of SB 56, 235 and 236, introduced Dr. Larry J. Blake, who represented Flathead Valley Community College, and who spoke as a proponent for the bills. James Hoffman, President of Dawson College, also spoke as a proponent of the bill and submitted a report of Financing Montana Community Colleges. There were no opponents.

Sponsor of SB 297, was introduced by Sen. David James, who introduced Kirk M. Dewey of the Montana Council of Churches. Mr. Dewey read and submitted a written statement in support of the bill. The other proponent was John Frankino, representing the Montana Catholic Conference. Opponents of the bill were: C. M. Ogren, Everett L. Lynn, D.D.S., Helena, Montana, Norman Ostrander, Seventh Day Adventist Church, Dr. E. L. Lynn, William R. Cainan, G. M. MacMillan, all of Helena.

After questions by the committee members, the witnesses were excused at 12:35 a.m.

Rep. Parrish motioned for a Be Concurred In on SJR 30. The motion carried. SB 219 was motioned for a Be Concurred In As Amended and the motion carried.

SB 29 - Rep. Cox motioned for a Be Concurred In and the motion carried.

Rep. Cox made a motion for a Be Concurred In As Amended on SB 249. A substitute motion of consideration passed on for the day was made and the motion carried.

The meeting adjourned at 12:35 p.m.

Warfield
Bill Warfield - Chairman

jw

NAME Judge Robert H. Wilson BILL NO. SB 219+
ADDRESS Billings Mont DATE 2-16-71

WHOM DO YOU REPRESENT? Dist. Judge 13th Cir

SUPPORT? Yes OPPOSE? _____ AMEND? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

SB 3196

NAME Mrs. Robert H. Wilson

BILL NO. SB 39

ADDRESS 2200 Virginia Lane
Billing, Mont.

DATE 2-16-71

HOW DO YOU REPRESENT? _____

SUPPORT? yes OPPOSE? _____ AMEND? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Jean Brodsky BILL NO. 29
ADDRESS 618 St Johns Ave DATE 2/16/71
Billings, Montana
WHOM DO YOU REPRESENT? MP HA

SUPPORT? / OPPOSE? AMEND?

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

This is necessary to
protect the rights of our
students. They should be
able to receive counseling
without fear of legal
action being taken.

Jean Brodsky
School Psychologist
School Dist # 2

NAME Jean Brodbery BILL No. 29
618 St. John's Ave DATE 2/16/31
Billings

WHOM DO YOU REPRESENT? Mont. Personnel & Guidance
Ass

SUPPORT? ✓ OPPOSE? AMEND?

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Richard J. Stealms BILL NO. SB 29
COUNTY 24th Wisconsin DATE 2/16/71
Billings Montana
WHOM DO YOU REPRESENT? MPGA

SUPPORT? ☒ OPPOSE? ☐ AMEND? ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Signed by electors.

(3) The certificate must be signed by electors residing within the state and district, or political division in which the officer or officers are to be elected. Each elector signing a certificate shall add to his signature, his place of residence, and his business address.

5% or more of vote.

(4) The number of signatures must be five percent (5%) or more of the total vote cast for the successful candidate for the same office at the next preceding election.

Filing 90 days prior to election.

(5) The candidates for nomination shall file the certificates ninety (90) days prior to the date of the general election. *Certificates of nomination of candidates for municipal offices must be filed with the clerks of the respective municipal corporations not more than thirty (30) days and not less than fifteen (15) days previous to the day of election.*

Municipal offices. Filing not more than 30—not less than 15 days.

Independent candidates. Certificate requirements.

(6) A person who desires to run for president or vice-president as an independent candidate, must file a certificate of nomination with the secretary of state. The certificate must have the signatures of electors equal to five percent (5%) or more of the legal votes cast for governor at the next preceding general election. He must also nominate the required number of electors allowable to Montana and certify the names to the secretary of state.

Exceptions.

(7) This section shall not apply to nominations for special elections or to fill vacancies.

Effective immediately.

Section 2. This act is effective on its passage and approval.

Approved February 24, 1971.

CHAPTER NO. 60

An Act to Provide a Period of Ten Years Within Which an Action for Damages Arising out of Certain Services or Work on Improvements to Real Property Must Be Commenced; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Limitation on actions.

Section 1. Except as provided in sections 2 and 3 of this act, no action to recover damages (other than an

action upon any contract, obligation, or liability, founded upon an instrument in writing) resulting from or arising out of the design, planning, supervision, inspection, construction, or observation of construction of, or land surveying done in connection with, any improvement to real property shall be commenced more than ten (10) years after completion of such improvement.

10 years.

Section 2. Notwithstanding the provisions of section 1 of this act, an action for such damages for an injury which occurred during the tenth year after such completion may be commenced within one (1) year after the occurrence of such injury.

Exception.

Section 3. The limitation prescribed by this act shall not affect the responsibility of any owner, tenant, or person in actual possession and control of the improvement at the time a right of action arises.

Limitation does not affect responsibility.

Section 4. As used in this act, the term "completion" means that degree of completion at which the owner can utilize the improvement for the purpose for which it was intended or when a completion certificate is executed, whichever is earlier.

"Completion" defined.

Section 5. Nothing in this act shall be construed as extending the period prescribed by the laws of this state for the bringing of any action.

Construction.

Section 6. In order to provide a reasonable period for commencement of any action for which a right of action has heretofore accrued, this act shall be effective January 1, 1972.

Effective January 1, 1972.

Approved February 27, 1971.

CHAPTER NO. 61

An Act Providing for the Creation of a Confidential Relationship Between Student and School Personnel.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 93-701-4, R.C.M., 1947, is amended to read as follows:

Amending clause.

"93-701-4. Persons in certain relations cannot be exam-

Privileged
communications.

ined. There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person cannot be examined as a witness in the following cases:

Husband and wife.

1. A husband cannot be examined for or against his wife without her consent; nor a wife for or against her husband without his consent; nor can either, during the marriage or afterward, be, without the consent of the other, examined as to any communication made by one to the other during the marriage; but this exception does not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other.

Attorney and client.

2. An attorney cannot, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of professional employment.

Clergyman or priest
and confessor.

3. A clergyman or priest cannot, without the consent of the person making the confession, be examined as to any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs.

Physician or
surgeon and patient.

4. A licensed physician or surgeon cannot, without the consent of his patient, be examined in a civil action as to any information acquired in attending the patient, which was necessary to enable him to prescribe or act for the patient.

Public officer.

5. A public officer cannot be examined as to communications made to him in official confidence, when the public interests would suffer by the disclosure.

Psychologist and
child.

6. Any person engaged in teaching psychology in any school, or who acting as such is engaged in the study and observation of child mentality, shall not without the consent of the parent or guardian of such child being so taught or observed testify in any civil action as to any information so obtained.

Counselor,
psychologist, nurse
or teacher in
educational
institution and
student.

7. A counselor, psychologist, nurse, or teacher, employed by any educational institution, cannot be examined as to communications made to him in confidence by a duly registered student of such institution, provided however, that this provision shall not apply where consent has been

given by the student, if not a minor, or if he is a minor, by the student and his parent or legal guardian."

Approved February 27, 1971.

CHAPTER NO. 62

An Act to Amend Sections 4-114 and 4-121, R.C.M., 1947, Relating to the Hours State Liquor Stores Shall Be Open.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 4-114, R.C.M., 1947, is amended to read as follows:

Amending clause.

"4-114. Establishment of state liquor stores—hours—kinds and prices of liquor. The board shall establish and maintain at the county seats and such other places as the board deems advisable, one or more stores to be known as "state liquor stores," for the sale of liquor in accordance with the provisions of this act and the regulations made thereunder; the stores shall be classified according to the volume of business which each store does each fiscal year; the volume of business to be used in figuring each store's classification shall be the volume of business done by the store to be classified during the immediate past fiscal year; stores shall be classified as follows: stores having done a business of four hundred and fifty thousand dollars (\$450,000) or over during the immediate past fiscal year shall be "Class A" stores; stores having done a business of one hundred and forty thousand dollars (\$140,000) and up to four hundred and fifty thousand dollars (\$450,000) during the immediate past fiscal year shall be "Class B" stores; and all stores having done a business of less than one hundred and forty thousand dollars (\$140,000) during the immediate past fiscal year shall be "Class C" stores; in opening new stores the board shall estimate the volume of business which said store will do the first year and classify said store according to the estimate of business; the board shall employ the necessary help to operate said stores and shall designate the duties to be performed by the employees; the board may, from time to

Board shall
establish "state
liquor stores."

Stores shall be
classified.

Determination
based on volume
of business.

New stores.

Board shall
employ help.
Designate duties.